

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

ADRIAN JAMES BRADFORD,  
*Petitioner.*

No. 2 CA-CR 2020-0033-PR  
Filed June 24, 2020

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
NOT FOR PUBLICATION  
*See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.19(e).*

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Petition for Review from the Superior Court in Pima County  
No. CR20183253001  
The Honorable Kimberly H. Ortiz, Judge Pro Tempore

**REVIEW GRANTED; RELIEF DENIED**

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Adrian J. Bradford, San Luis  
*In Propria Persona*

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**MEMORANDUM DECISION**

Presiding Judge Eppich authored the decision of the Court, in which Judge Espinosa and Judge Eckerstrom concurred.

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E P P I C H, Presiding Judge:

¶1 Adrian Bradford seeks review of the trial court’s ruling summarily dismissing his petition for post-conviction relief filed pursuant to Rule 33, Ariz. R. Crim. P.<sup>1</sup> We will not disturb that order unless the court abused its discretion. *See State v. Roseberry*, 237 Ariz. 507, ¶ 7 (2015). Bradford has not shown such abuse here.

¶2 Bradford pled guilty to aggravated assault with a deadly weapon and drive-by shooting. The trial court sentenced him to concurrent prison terms, the longer of which is 9.25 years. Bradford sought post-conviction relief, and appointed counsel filed a notice stating he had reviewed the record but was “unable to find a meritorious issue of law or fact” to raise in a post-conviction proceeding.

¶3 Bradford then filed a pro se petition complaining that his trial counsel had refused to file a motion pursuant to Rule 12.9, Ariz. R. Crim. P., for a redetermination of probable cause and arguing his due process rights had been violated because the state withheld exculpatory evidence from the grand jury. The trial court summarily dismissed the petition, concluding Bradford had waived his claims by pleading guilty and the claims were precluded on waiver grounds under (then applicable) Rule 32.2(a)(3).

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<sup>1</sup>Effective January 1, 2020, our supreme court amended the post-conviction relief rules. Ariz. Sup. Ct. Order R-19-0012 (Aug. 29, 2019). The amendments apply to all cases pending on the effective date unless a court determines that “applying the rule or amendment would be infeasible or work an injustice.” *Id.* Because it is neither infeasible nor works an injustice here, we cite to and apply the current version of the rules. *See State v. Mendoza*, No. 2 CA-CR 2019-0281-PR, WL 3055826, n.1 (Ariz. App. June 9, 2020).

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¶4 Bradford subsequently filed an “amended” petition for post-conviction relief, reasserting his grand-jury claim and characterizing it as a claim of newly discovered evidence, contending he had not had the opportunity to “thorough[ly] review” the “case records” before his first petition had been due. The court granted Bradford’s request to file an amended petition but then dismissed it, noting Bradford had been aware of the exculpatory evidence but instead opted to plead guilty and again concluding Bradford had waived the claim by pleading guilty and the claim was precluded. This petition for review followed.

¶5 Bradford first repeats his claim that the state withheld exculpatory evidence from the grand jury, thus violating his “right to a fair and impartial grand jury proceeding.” As the trial court correctly concluded, Bradford expressly waived in his guilty plea the right to seek a redetermination of probable cause. Thus, this claim is precluded by Rule 33.2(a)(1); *see also State v. Flores*, 218 Ariz. 407, ¶ 6 (App. 2008) (plea agreement waives all nonjurisdictional defects unrelated to the validity of the plea, including constitutional challenges). Bradford has not asserted his plea was involuntary or otherwise invalid.

¶6 Bradford again contends he is entitled to raise this claim based on newly discovered evidence under Rule 33.1(e). But, even if we agreed information in a defendant’s file could qualify as newly discovered in any circumstance, Bradford waived the underlying claim in his plea agreement.

¶7 Last, Bradford asserts that preclusion does not apply to his claim because the state’s conduct in withholding exculpatory evidence was “egregious” and resulted “in a manifest injustice.” But, Bradford not only failed to raise this claim below, he cites no authority suggesting that we may disregard the preclusion rules on this basis. *See State v. Stefanovich*, 232 Ariz. 154, ¶ 16 (App. 2013) (insufficient argument waives claim); *State v. Ramirez*, 126 Ariz. 464, 468 (App. 1980) (appellate court will not address arguments asserted for first time in petition for review). And in any event, as already noted, he waived the right to seek redetermination of probable cause. The trial court did not err in summarily dismissing Bradford’s petition.

¶8 We grant review but deny relief.